

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL MEMORANDUM**

**HB 2136 – SB 2095**

April 21, 2009

**SUMMARY OF AMENDMENT (006430):** Deletes all language after the enacting clause and requires the Bureau of TennCare and the Departments of Health, Children's Services, and Mental Health and Developmental Disabilities to ensure that pregnant women and women who have just given birth who are addicted to alcohol and controlled substances are referred to the appropriate agencies and receive the proper treatment for themselves and their babies. Requires physicians who determine that a newborn is suffering from neonatal abstinence syndrome to notify the Department of Children's Services (DCS). DCS is required to monitor the child and ensure that the child is receiving adequate and appropriate services. Prohibits the use of information, interviews, reports, statements, memoranda, and drug and alcohol test results received through the program from being used as evidence in any criminal proceeding against the mother of the child who was subject to the test. All information concerning drug or alcohol test results received by laboratories, medical review officers, employee assistance programs, and drug and alcohol rehabilitation programs and their agents is confidential.

**CORRECTED FISCAL IMPACT OF ORIGINAL BILL:**

Increase State Expenditures – Exceeds \$100,000

Decrease State Expenditures – \$100,500/Incarceration

A more precise cost estimate was not possible because the Department of Health has not provided any information to assist in the preparation of the fiscal note.

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

**Decrease State Expenditures – \$100,500/Incarceration**

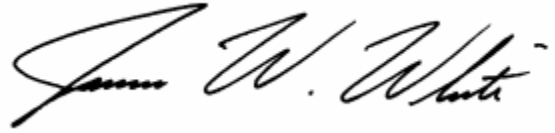
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Assumptions applied to amendment:

- The Departments of Health, Children's Services, Mental Health and Developmental Disabilities, and the Bureau of TennCare will not incur a significant increase in expenditures to ensure that pregnant women and women who have recently given birth are referred to the appropriate services for treatment for them and their babies.
- The Department of Children's Services will not incur a significant increase in expenditures to accept notification from physicians and monitor the services the child is receiving. These cases normally come to the attention of the Department and are currently investigated.
- If a physician has reason to believe a mother used alcohol or a controlled substance for a non-medical purpose during a pregnancy and an infant is suffering from neonatal abstinence syndrome as a result, the physician is required to administer a toxicology test to determine where there is evidence of prenatal exposure. This bill prohibits the use of information obtained through such testing from being used in a criminal proceeding against the mother and as a result there will be a decrease in admissions for the Department of Correction (DOC). These types of cases would currently be prosecuted as child abuse or neglect, aggravated child abuse or neglect, or criminally negligent homicide depending on the degree of injury to the child.
- According to DOC, there has been an average of 10 admissions for the Class A felony offense of aggravated child abuse or neglect where the victim was six years old or younger and an average of 37 admissions for the Class E felony offense of child abuse or neglect where the victim was six years old or younger in each of the past 10 years. DOC estimates a reduction of two percent in these admissions as a result of this bill. One fewer admission for the Class E felony offense of child abuse or neglect each year and a decrease in the Class A felony offense of aggravated child abuse or neglect of one every five years.
- According to DOC, the average post-conviction time served for a Class E felony is 1.63 years and 14.86 for a Class A felony. The cost per offender at 1.63 years is \$35,548.11 (\$59.80 x 594.45 days) and the cost per offender at 14.86 years is \$324,636.26 (\$59.80 x 5,428.70 days). One fewer Class E felony each year will result in a reduction of \$35,548.11.
- The annualized time served per conviction for a Class A felony is 1,085.74 days time served (5,428.70 x .20 annual number of convictions). The annualized cost per conviction is \$64,927.25 (\$59.80 x 1,085.74 days). Every five years, one fewer Class A felony will result in a reduction of \$64,927.25. Total reduction in incarceration costs is \$100,475.36 (\$64,927.25 + \$35,548.11).

**CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is written in a cursive style with a large, stylized initial "J".

James W. White, Executive Director

/kml